

CLOSED, INTERPRETER

U.S. District Court
Northern District of Georgia (Atlanta)
CRIMINAL DOCKET FOR CASE #: 1:09-mj-00038-AJB All Defendants
Internal Use Only

Case title: USA v. Chen

Date Filed: 01/12/2009

Other court case number: 3:02CR233-MU Western District
of North Carolina, Charlotte Div

Date Terminated: 01/15/2009

Assigned to: Magistrate Judge Alan J.
Baverman

Defendant (1)

Shanzeng Chen

TERMINATED: 01/15/2009

represented by **Jimmy Hardy**

Federal Defender Program

100 Peachtree Street, N.W.

The Equitable Building, Suite 1700
Atlanta , GA 30303

404-688-7530

Fax: 404-688-0768

Email: Jimmy_Hardy@FD.Org

LEAD ATTORNEY

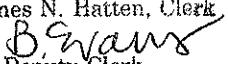
ATTORNEY TO BE NOTICED

*Designation: Public Defender or
Community Defender Appointment*

ATTEST: A TRUE COPY
CERTIFIED THIS

JAN 1st 2009

James N. Hatten, Clerk

By: 
Deputy Clerk

Pending Counts

Disposition

None

Highest Offense Level (Opening)

None

Terminated Counts

Disposition

None

Highest Offense Level (Terminated)

None

ComplaintsDisposition18:371 - CONSPIRACY TO
DEFRAUD THE UNITED STATESPlaintiff

USA

represented by **Mary Christine Roemer**
 Office of United States Attorney
 75 Spring Street, S.W.
 600 United States Courthouse
 Atlanta , GA 30303
 404-581-6000
 Email: mary.roemer@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/12/2009	1	Arrest (Rule 40) of Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/12/2009	2	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Jimmy Hardy as to Shanzeng Chen. Signed by Magistrate Judge Alan J. Baverman on 1/12/09. (bse) (Entered: 01/16/2009)
01/12/2009	3	Minute Entry for proceedings held before Magistrate Judge Alan J. Baverman: Initial Appearance in Rule 5(c)(3) Proceedings as to Shanzeng Chen held on 1/12/2009. Identity hearing to be held on 1/15/09 at 10:00AM. Defendant is named defendant in indictment; held for removal to other district. Government's Motion for Detention filed. (Note: Indictment from WDNC is filed under Seal). (Tape #FTR). Interpreted by Sylvia Sham.(bse) (Entered: 01/16/2009)
01/12/2009	4	GOVERNMENT'S MOTION for Detention by USA as to Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/12/2009	5	Order of Temporary Detention Pending Hearing pursuant to Bail Reform Act by Judge Alan J. Baverman as to Shanzeng Chen. Detention Hearing set for 1/15/2009 at 10:00 AM in ATLA Courtroom 1875 before Magistrate Judge Alan J. Baverman. (bse) (Entered: 01/16/2009)
01/12/2009	6	ORAL MOTION to Dismiss Indictment for an improper warrant by Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/12/2009	7	Minute Entry for proceedings held before Magistrate Judge Alan J. Baverman: Detention Hearing as to Shanzeng Chen. Defendant waives identity hearing only. Waiver filed. <u>3</u> Government's Motion for Detention GRANTED. Defendant's Oral Motion to Dismiss Indictment for an improper warrant is DENIED. Commitment issued. (Tape #FTR). Interpreted by Sylvia Sham.

		(bse) (Entered: 01/16/2009)
01/15/2009	<u>6</u>	WAIVER of Rule 40 Hearings by Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/15/2009	<u>7</u>	ORDER OF DETENTION Pending Trial by Judge Alan J. Baverman as to Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/15/2009	<u>8</u>	COMMITMENT TO ANOTHER DISTRICT as to Shanzeng Chen. Defendant committed to Western District of North Carolina. Signed by Magistrate Judge Alan J. Baverman on 1/15/09. (c: served by deputy clerk). (bse) (Entered: 01/16/2009)
01/15/2009	<u>9</u>	Magistrate Case Closed. Defendant Shanzeng Chen terminated. (bse) Modified on 1/16/2009. PDF incorrectly attached to this entry. (bse). (Entered: 01/16/2009)
01/16/2009	<u>10</u>	Transmittal of Rule 5(c)(3) Documents as to Shanzeng Chen, sent to Western District of North Carolina via certified mail, rrr. Original case file with certified copy of Commitment Order and docket sheet. (bse) (Entered: 01/16/2009)

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAN 12 2009

JAMES A. HATTEN, Clerk
By: 
Deputy Clerk

UNITED STATES OF AMERICA,
Plaintiff,
vs.
SHANZENG CHEN,
Defendant.

CASE NO. 1:09-MJ-38-AJB

ORDER APPOINTING COUNSEL

JIMMY HARDY

The above-named defendant has testified under oath or has filed with the Court an affidavit of financial status and hereby satisfied this Court that he or she is financially unable to employ counsel.

Accordingly, the **FEDERAL DEFENDER PROGRAM, INC.**, is hereby appointed to represent this defendant in the above-captioned case unless relieved by an Order of this Court or by Order of the Court of Appeals.

Dated at Atlanta, Georgia this 12th day of January, 2009.



UNITED STATES MAGISTRATE JUDGE

DATE: 1/12/09 @ 5:57 pm

TAPE: FTR @ 24 Mins.

ORIGINAL

TIME IN COURT: _____

MAGISTRATE JUDGE ALAN J. BAVERMANCOURTROOM DEPUTY CLERK: Lisa EnixCASE NUMBER: 1:09-MJ-38-AJBDEFENDANT'S NAME: Shanzeng ChenAUSA: Mary RoemerDEFENDANT'S ATTY: Jimmy Hardy

USPO / PTR: _____

() Retained () CJA **(X)** FDP () Waived

ARREST DATE _____

 Initial appearance hearing held. Defendant informed of rights. Interpreter sworn: Sylvia Sham - SwornCOUNSEL ORDER appointing Federal Defender as counsel for defendant. ORDER appointing _____ as counsel for defendant.

ORDER: defendant to pay attorney's fees as follows: _____

IDENTITY / PRELIMINARY HEARINGDefendant WAIVES identity hearing only. WAIVER FILED Identity hearing to be held _____ Def is named def. in indictment/complaint; held for removal to other district. on 1/15/09 at 10:00 am.Defendant WAIVES preliminary hearing in this district only. WAIVER FILED

Preliminary hearing held. _____ Probable cause found; def. held to District Court for removal to other district

Removal hearing set/reset/cont to _____ @ _____.

Commitment issued.

BOND/PRETRIAL DETENTION HEARING Government motion for detention filed. () Verbal Motion 1/15/09 @ 10:00 AM

Pretrial hearing set for _____ @ _____ () In charging district.)

Bond/Pretrial detention hearing held.

 Government motion for detention () GRANTED () DENIED () WAIVED in this district

Pretrial detention ordered. _____ Written order to follow.

BOND set at \$ _____ NON-SURETY _____ SURETY _____

_____ cash _____ property _____ Signature _____

SPECIAL CONDITIONS: _____

Bond filed. Defendant released.

Bond not executed. Defendant to remain in Marshal's custody.

Motion () verbal to reduce/revoke bond filed.

Motion to reduce/revoke bond _____ GRANTED _____ DENIED

ORIGINAL

JAN 12 2009

JAMES N. HATTEN, Clerk
By: *R. Lewis* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

SHANZENG CHEN

: CRIMINAL ACTION
: NO. 1:09-MJ- ~~58~~ ASB

GOVERNMENT'S MOTION FOR DETENTION

Comes now the United States of America, by and through its counsel, David E. Nahmias, United States Attorney, and MARY C. ROEMER, Assistant United States Attorney for the Northern District of Georgia, and pursuant to 18 U.S.C. §§ 3142(e) and (f) moves for detention for the above-captioned defendant.

1. Eligibility of Case.

This case is eligible for a detention order because this case involves (check all that apply):

Crime of violence (18 U.S.C. § 3156)

Maximum sentence of life imprisonment or death

10 + year drug offense

Felony, with two prior convictions in the above categories

Serious risk the defendant will flee

Serious risk of obstruction of justice

2. Reason for Detention.

The Court should detain defendant because there are no conditions of release that will reasonably assure (check one or both) :

Defendant's appearance as required
 Safety of any other person and the community

3. Rebuttable Presumption.

The United States (will, will not) invoke the rebuttable presumption against defendant under § 3142(e). (If yes) The presumption applies because (check one or more) :

There is probable cause to believe defendant committed 10 + year drug offense.
 There is probable cause to believe defendant committed an offense in which a firearm was used, carried, or possessed under § 924(c).
 Defendant has been charged with a federal offense that is described in § 3142(f)(1), and
(1) defendant has been convicted of a Federal offense that is described in § (f)(1) of this section, or of a State or Local offense that would have been an offense described in § (f)(1) of this section if a circumstance giving rise to Federal jurisdiction had existed;

(2) the offense described in paragraph (1) was committed while defendant was on release pending trial for a Federal, State or local offense; and

(3) A period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

[Circle one] This is an offense involving a minor under 18 U.S.C. § 1201, or an offense under 18 U.S.C. § 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423 or 2425.

4. Time for Detention Hearing.

The United States requests the Court conduct the detention hearing:

X At the initial appearance.

 After continuance of day (not more than 3).

The Government requests leave of Court to file a supplemental motion with additional grounds or presumption for detention should this be necessary.

Dated: this 12th day of January, 2009.

Respectfully submitted,

DAVID E. NAHMIAS
UNITED STATES ATTORNEY

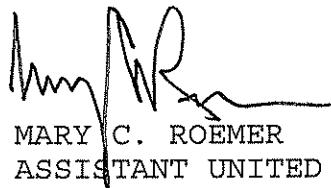

MARY C. ROEMER
ASSISTANT U.S. ATTORNEY
600 U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303
(404) 581-6000
Ga. Bar No. 611790

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by hand delivery:

Counsel for Defendant

This 12th day of January, 2009.



MARY C. ROEMER
ASSISTANT UNITED STATES ATTORNEY

ORIGINAL

UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

JAMES N. HATTEN, Clerk
By: 
Deputy Clerk

UNITED STATES OF AMERICA

V.

ORDER OF TEMPORARY DETENTION
PENDING HEARING PURSUANT TO
BAIL REFORM ACT

SHANZENG CHEN

Defendant

Case

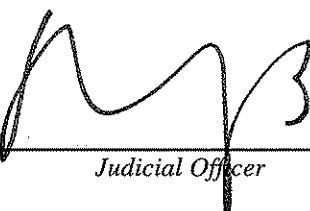
1:09-MJ-38-AJB

Upon motion of the U. S. GOVERNMENT, it is ORDERED that a
 detention hearing is set 1/15/09 * at 10:00 am
 Date Time

before ALAN J. BAVERMAN
 Name of Judicial Officer

Courtroom 1875, U.S. Courthouse 75 Spring Street, S.W. Atlanta, GA 30303
 Location of Judicial Officer

Pending this hearing, the defendant shall be held in custody by (the United States marshal) _____
) and produced for the
 Other Custodial Official

Date: 1/12/2009
 Judicial Officer

*If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. § 3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. § 3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.

ORIGINAL

DATE: 1/15/09 @ 10:47 am

TIME IN COURT: 23 Mins.

MAGISTRATE JUDGE ALAN J. BAVERMAN

COURTROOM DEPUTY CLERK: Lisa Enix

CASE NUMBER: 1:09-MJ-38-AJB

DEFENDANT'S NAME: Shanzeng Chen

AUSA: Mary Roemer

DEFENDANT'S ATTY: Jimmy Hardy

USPO / PTR:

() Retained () CJA (X) FDP () Waived

ARREST DATE

Initial appearance hearing held. _____ Defendant informed of rights.

 Interpreter sworn: Sylvia ShamCOUNSEL

ORDER appointing Federal Defender as counsel for defendant.

ORDER appointing _____ as counsel for defendant.

ORDER: defendant to pay attorney's fees as follows:

IDENTITY / PRELIMINARY HEARING Defendant WAIVES identity hearing only. WAIVER FILED

Identity hearing HELD. _____ Def is named def. in indictment/complaint; held for removal to other district.

Defendant WAIVES preliminary hearing in this district only. _____ WAIVER FILED

Preliminary hearing held. _____ Probable cause found; def. held to District Court for removal to other district

Removal hearing set/reset/cont to _____ @ _____.

 Commitment issued.BOND/PRETRIAL DETENTION HEARING

Government motion for detention filed. () Verbal Motion _____

Pretrial hearing set for _____ @ _____ () In charging district.)

 Bond/Pretrial detention hearing held. Government motion for detention (X) GRANTED () DENIED () WAIVED in this district Pretrial detention ordered. Written order to follow.

BOND set at \$ _____ NON-SURETY _____ SURETY _____

cash _____ property _____ Signature _____

SPECIAL CONDITIONS: _____

Bond filed. Defendant released.

Bond not executed. Defendant to remain in Marshal's custody.

Motion () verbal to reduce/revoke bond filed.

Motion to reduce/revoke bond _____ GRANTED _____ DENIED _____

MINUTES:

Defendant's oral motion to dismiss the indictment for an improper warrant. The Court **DENIED** motion to dismiss.

EXHIBITS:

Original Exhibits

RETAINED by the Court

RETURNED to counsel

UNITED STATES DISTRICT COURT

ORIGINAL

NORTHERN

DISTRICT OF

GEORGIA

JAMES R. MATTHEW, Clerk

By:

Deputy Clerk

UNITED STATES OF AMERICA

V.

WAIVER OF RULE 40 HEARINGS
(Excluding Probation Cases)

SHANZENG CHEN

CASE

1:09-MJ-38-AJB

I,

SHANZENG CHEN

, understand that in the

WESTERN

District of NORTH CAROLINA

, charges are pending

alleging violation of 18:1028 Fraudulent Immigration Documents and that I have been arrested in this District and taken before a United States Magistrate Judge who informed me of the charge and of my right to:

(1) retain counsel or request the assignment of counsel if I am unable to retain counsel, (2) request transfer of the proceedings to this district pursuant to Rule 20, Fed. R. Crim. P., in order to plead guilty, (3) an identity hearing to determine if I am the person named in the charge, and (4) a preliminary examination (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held either in this district or the district of prosecution.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

identity hearing
 preliminary examination
 identity hearing and have been informed I have no right to a preliminary examination
 identity hearing but request a preliminary examination be held in the prosecuting district

and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge is pending against me.

Defendant

Defense Counsel

1-15-09

Date

ORIGINAL
NORTHERN

UNITED STATES DISTRICT COURT

District of

GEORGIA

UNITED STATES OF AMERICA

V.
SHANZENG CHEN

Defendant

ORDER OF DETENTION PENDING TRIAL

Case

1:09-MJ-38-AJB

JAMES X. HATTEN, Clerk
By: *[Signature]*
Deputy Clerk

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I—Findings of Fact

(1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a federal offense state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed that is a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
 an offense for which the maximum sentence is life imprisonment or death.
 an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____*

a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.

(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.

(3) A period of not more than five years has elapsed since the date of conviction release of the defendant from imprisonment for the offense described in finding (1).

(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

(1) There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____ under 18 U.S.C. § 924(c).

(2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

(1) There is a serious risk that the defendant will not appear.
 (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence a preponderance of the evidence that

*Probable cause exists that defendant and remained in US via
 false [forged] improperly issued documents. He is subject to an immigration
 detention. He has not established familial ties to community.*

Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

1/15/2009

Date

Signature of Judicial Officer

ALAN J. BAVERMAN, U. S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

ORIGINAL UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

FILED IN OPEN COURT

USDC Atlanta

UNITED STATES OF AMERICA
v.

SHANZENG CHEN

COMMITMENT TO ANOTHER DISTRICT

JAMES N. HATTEN, Clerk
By *[Signature]* Deputy Clerk

DOCKET NUMBER

MAGISTRATE/JUDGE CASE NUMBER

District of Arrest

District of Offense

District of Arrest

District of Offense

NDGA

WDNC

1:09-MJ-38-AJB

3:02CR233-FDW-22

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

 Indictment Information Complaint

Other (specify)

ATTEST: A TRUE COPY
CERTIFIED THIS

charging a violation of 18 U.S.C. § 371.F

DISTRICT OF OFFENSE

JAN 16 2009

WESTERN DISTRICT OF NORTH CAROLINA

DESCRIPTION OF CHARGES:

James N. Hatten, Clerk

By *[Signature]*
Deputy Clerk

CONSPIRACY TO DEFRAUD THE UNITED STATES

CURRENT BOND STATUS:

Bail fixed at _____ and conditions were not met
 Government moved for detention and defendant detained after hearing in District of Arrest
 Government moved for detention and defendant detained pending detention hearing in District of Offense
 Other (specify) _____

Representation: Retained Own Counsel Federal Defender Organization CJA Attorney NoneInterpreter Required? No Yes Language *Chinese*

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named witness and to transport that witness with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the witness to the United States Marshal for that District or to some other officer authorized to receive the witness.

1/15/2009

Date

United States Judge or Magistrate Judge

RETURN

This commitment was received and executed as

DATE COMMITMENT ORDER RECEIVED	PLACE OF COMMITMENT	DATE DEFENDANT COMMITTED